

REMARKS

Contrary to the Examiner's statement, the claims as originally presented, see claims 23 and 24, called for a "tension device for use in a two-story building" thus the statement that "the claims as originally presented are considered to be directed only to Species 1 - Figures 1-5" is obviously incorrect. This has been pointed out in the Amendment included with the RCE on 03/29/2007 and applicant incorporates those remarks herein.

Claims 14-16, 25-30 and 34-36, as now amended are believed to be patentable under 35 USC 103(a) over Bengston et al '218 in view of Granieri '306. Bengston discloses that the rods 32-34 are "approximately four feet" and are threaded at their ends (col. 3, lines 60-63). That would require a brick mason to lift and lower a concrete block of normal construction as the grout was being placed on the foundation and as the courses thereof were laid. Bengston prefers to use a particularly light block with a minimum of webbing 42 between the sides thereof with the webbing 42 even being substantially shortened to broken line 43 of FIG. 8. Any such concrete block would be unusual in the concrete block industry. One then must connect the second sections 35 by threaded couplers not identified or discussed in Bengston and the upper ends thereof must extend through the top plate 18 shown in FIG. 1. Of course, the top plate 18 is not provided on the top course until after the top course has been laid. If the second sections extend above the top plate how then does the top plate get connected to the top course? Apparently

from Bengston it would seem that the plate 18 is not connected in any way to the top course since Bengston is silent with respect thereto. Accordingly, it would seem that the rods 32-34 and 35 would all need to be aligned which would seem to be practically impossible to achieve in building the masonry building of the type disclosed by Bengston. Furthermore a single wood plate 18 of Bengston is not a continuous beam at all but formed by butted together individual boards. For the Examiner to imply that Bengston's wood plate 18 is a beam is believed to be novel in this industry. A wood plate is not believed to be a wood beam.

While applicant does admit that use of concrete bond beams in masonry wall construction is well known and likely known to Bengston, it is not believed to be a matter of design choice otherwise Bengston would have used same. Bengston could not do so because he believed it was necessary to use wood plates 18 with spaced pre-drilled holes to lay over the upper ends of rods 35. The claimed continuous bond beam as set forth in this application provides a unified structural concrete beam above all the walls and such beam is connected to the unified concrete foundation through the elongated members in each wall. The assertion by the Examiner that the beam, i.e., plate of Bengston "would perform equally well" to applicant's claimed invention is simply incorrect.

Bengston not only does not include a plurality of spaced vertically disposed bores in the concrete foundation as acknowledged by the Examiner, Bengston specifically bends or upsets the lower ends of the rods 32 and clips or wires same to and below the reinforcing bar 31 located in a footer form

such as trench 30 before concrete is poured therein. (see FIG. 2 and col. 3, lines 31-40 of Bengston). Granieri discloses a plurality of spaced threaded sleeves 14 with screws 8 being removable after pouring and setting of the concrete and after which the lower ends of threaded rods 12 are threaded thereinto. Persons having ordinary skill in the art would not obviously reconstruct the lower end portions of the rods 32-34 of Bengston by any alleged teaching of Granieri since such reconstruction would result in a less solid connection of the rods of Bengston to the foundation, rather than a "more solid connection." What can be more solid than a unitary rod with an angled or upset end tied to and beneath a rebar as shown by Bengston?

Claim 14, now calls for, inter alia,

"a continuous concrete bond beam formed at upper portions of all said plurality of masonry walls . . . each said elongated member having one end portion extending into said bore and being secured to said foundation by adhesive . . ."

which are not shown or suggested by Bengston or Granieri.

As to Claim 15, Bengston discloses a top plate - not a beam.

Claim 25 is believed to be patentable over Bengston in view of Granieri for substantially the same reasons as claim 14. Although not mentioned in the rejection of claim 14, the Examiner now states "it is common and well known in the art to use adhesive for additional securement of building elements as adhesive provides a stronger connection." Applicant submits that this statement has no basis in fact. Does the Examiner contend that putting an adhesive on the lower end of rods 32-34 would render the embedment thereof in concrete stronger? Applicant takes issue with such contention and requests the Examiner to furnish support therefor.

As to claim 28, the combination of Granieri and Bengston is not believed appropriate and no adhesive is used in either reference.

As to claims 29 and 30, the post-tensioning rods 16 are not wire nor substantially rigid wire ropes and Bengston does not mention same.

As to claim 35 both Bengston and Granieri include rebar as the reinforcing bar in the concrete slab or footer. Neither discloses that the elongated tensioning member is or can be a rebar. The limitation of "welded to" is not believed to be a "product-by-process claim", in that this is the manner of providing such a rebar with a threaded end connected thereto.

Claims 31-33 are believed to be patentable under 35 USC 103(a) over Bengston et al '218 in view of Granieri '306 and Ayrapetyan '681.

Ayrapetyan discloses a prestressing system and not a post-tensioning system as stated by the Examiner and relates to wood floor structures not to any concrete block walls with a continuous concrete bond beam. How the bulbous element of Ayrapetyan would aid in tensioning of the elements in the reconstructed Bengston in view of Granieri is not at all apparent to applicant. Furthermore it seems that the Examiner is using hindsight in such suggestion.

As to claim 32, it is believed even more evident to somehow place the bulbous element into a bore in the foundation and secure by adhesive.

As to claim 33, none of the applied art discloses a pair of bulbous elements as set forth in claim 33 and the other remarks above further apply to this rejection.

A telephone interview is respectfully requested to resolve any remaining issue prior to another final rejection on the merits and to consider any recommended changes in the claims to render them more in accord with 35 USC 112, second paragraph and/or patentable over the art according to 35 USC 103(a).

Respectfully submitted,

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